

THE CENTRAL ADMINISTRATIVE TRIBUNAL- ALLAHABAD BENCH-ALLAHABAD.

O.A. NO. 610 of 1992.

Union of India and others..... Applicant.

Versus

Smt. Shakuntla Devi..... Respondents.

Hon'ble Mr. Justice U.C. Srivastava-V.C.  
Hon'ble Mr. K. Obayya - Member (A).

(By Hon'ble Mr. Justice U.C. Srivastava-V.C.)

As a short question is involved in this case and it can be heard and disposed of after hearing the counsel for the parties.

Deoki Nandan represented by her legal representatives who are respondent to this application, was an employee of Western Railway. He was ~~being~~ removed from the service. Against the removal order he filed a Civil Suit. It was contested by the Union of India. The suit was decreed by the Court of Munsif on 18.3.61. The appeal filed by the Union of India, was allowed by the Additional District Judge, against which the said Deoki Nandan filed an appeal before the High Court-Allahabad and the High Court allowed the appeal vide judgment dated 5.2.75 and set-aside the judgment and decree passed by Additional District Judge and restored the judgment and decree passed by the Court of Munsif.

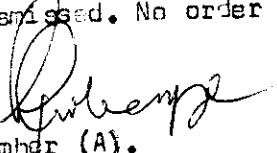
As nothing was paid to said Deoki Nandan, he filed an application on 8.10.75 under the payment of wages Act before the Prescribed Authority and the Prescribed Authority after hearing the pleadings in the case and having heard the counsel for the parties held that he was wrongly deprived of the salary and the emoluments and consequently application was allowed and the sum of Rs. 14, 189/- 10 P. was awarded to him with four times Rs. 56,751/- was allowed to him as compensation. Against this order the Union of India has filed an appeal which was also dismissed, whereafter it has approached this Tribunal challenging the said order. On behalf of Union of India it was pleaded that Deoki Nandan did not make any efforts to resume his duties and that is why the question

of payment of salary did not arise, and that this application is barred by time. The plea of time was rejected by both the courts and the same was rightly done so and the case was ultimately decided by the High Court on 5.2.75. The plea that the claim was barred by Order 2 Rule 2 was also rejected on the ground that the same was not applicable and obviously, so long the matter was pending which was not open for the deceased to make claim before any court or Tribunal or the authority, till then, rightly the issue was decided against the Union of India.

On behalf of the applicant it was contended that the at the most it was a case of delay<sup>in</sup> payment and it could not be a case of deduction and consequently the application was not maintainable.

XXXXXXXXXXXXXXXXXXXXXXX The plea which have been raised by the learned counsel does not get support from the facts of the case as was pleaded by the respondent. According to the respondent the deceased absconded and did not join ~~in~~ his duties and as such the question of payment did not arise/According to the respondents the applicant was not allowed to resume the duties and to make the payment. It was not a case of delay<sup>in</sup> payment, but it was a case of no payment i.e. deduction from the payment. After the decision of the High Court the deceased automatically deemed to be continued in service. It was the duty of the applicant to allow him to continue and to pay salary. Neither of these two pleas were covered. Consequently the matter is covered by Section 7 of the Payment of Wages Act and the Prescribed Authority and Appellate Authority committed no error in allowing the claim. Lastly it was contended that the amount of compensation is too much. It was within the jurisdiction of the Prescribed Authority to allow a particular amount as compensation and exercise discretion in this behalf. Taking into the consideration, the facts of the case and may be that the deceased died, only four

times compensation was allowed and not more than that. It cannot be said that the amount of compensation, so awarded is excessive. It may be that the entire amount which could have been awarded was not awarded by the Prescribed Authority on the ground that the deceased is now dead and was represented by his ~~legal~~ heir and legal representative. There are no grounds for reducing the amount of compensation and accordingly this application is dismissed. No order as to the costs.

  
Member (A).

  
Vice Chairman.

Dt: July 7, 1992.

(DPS)